

99/2.01
WASCO CO

99/2.01
WASCO CO
RECEIVED

APR 22 1999
WATER RESOURCES DEPT.
SALEM, OREGON

**Short-Term Water Right Lease Agreement
for
Leases of Existing Water Rights for Instream Use**

LA # 62

This Lease Agreement is between:

Lessor:

Carleton & Pamela Clausen
85681 Adkisson Road
Dufur, OR 97021
(541) 993-7655-Phone

The water right to be leased is located in Wasco County.

Lessee:

Oregon Water Trust
111 SW Naito Parkway
Suite 404
Portland, OR 97204
(503) 226-9055-Phone
(503) 226-3480-Fax

Trustee

Oregon Water Resources Department
158 12th Street NE
Salem OR 97310
(503) 378-3739-Phone
(503) 378-2496-Fax

I.

- 1.1 Lessor is the owner of property highlighted in *Exhibit B*.
- 1.2 Section 1.2 is not applicable.
- 1.3 *Exhibit C* contains a copy of right attached to the property in *Exhibit B* that is to be leased This right is listed below as follows:

Certificate No.: 49296

- 1.4 **Subject Water Rights.** Lessor proposes to lease all of the right listed in 1.3, above.

The right to be leased is further described as follows:

Water Right Identification No.: 49296
Source: Fifteenmile Creek
Priority date: December 13, 1977
Type of use: Irrigation
Place of use: (map of irrigated lands is in *Exhibit D.*)
T 1S, R 13E, S 34, NE¼ NE¼-16.4 acres
T 1S, R 13E, S 34, SE¼ NE¼-17.0 acres
Number of acres, if for irrigation: 33.4
Rate: 0.42
Duty: 3 acre feet per acre
Season of use: Irrigation season
Point(s) of diversion (POD): NE¼ NE¼, Section 34, T. 1 S., R. 13 E., W.M.; 450 feet South and 630 feet West from the NE Corner, Section 34
Conditions or other limitations, if any: None

- 1.5 **Validity of Rights.** Lessor attests that the subject water right is legally valid by having been beneficially used according to the terms of the right within the last five years immediately preceding the 1999 irrigation year and, if the right is for irrigation, on all lands indicated in *Exhibit D.*
- 1.6 **Lease.** Lessor agrees to lease the water right listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-77-077.
- 1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject water right and under any water right that is supplemental to the subject water right.
- 1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

II.

- 2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is:

specific uses and needs identified in *Exhibit E* as signed off by ODFW.
- 2.2 **Instream use created by lease.** The instream use to be created is described as follows:

No.: 49296
Fifteenmile Creek, tributary to the Columbia River
Location: RM 32 to 2.75 (confluence of Eightmile Creek)
Priority date: December 13, 1977

Use: Described in section 2.1, above

Total volume: 3 acre feet per acre (100.2 af)

Rate: 0.42 cfs

Period of use: Irrigation season

Conditions to prevent or mitigate injury (if any): The instream flow will be allocated on a daily average basis at 0.42 cfs from June 1 through September 28, or until such time that the total duty for the irrigation season is met or unless regulated off by the watermaster for prior rights.

- 2.3 **Term of lease.** This Lease shall commence on June 1, 1999 (not before the date of final execution by the parties) and continue through December 31, 1999.
- 2.4 **Compensation.** Lessor has agreed to lease the water rights herein to the Oregon Water Trust for cash and other considerations and for the benefit of the people of the state of Oregon.
- 2.5 **Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). No party is required to continuously measure the flow of the waterway described in Section 2.2.

Optional Provisions

- 2.6 **Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: possibly collecting information for calculating stream discharge.
- 2.7 **Modification or termination provisions.** None

III.

- 3 **Watermaster review.** By signature below, the watermaster for the district where the subject water rights are located verifies that:
- 3.1 Lessor is currently entitled to appropriate water under the water rights described in Section 1.4.
- 3.2 A suitable control is in place so that WRD staff may regulate use of water under the subject rights to ensure water is not diverted.
- 3.3 Allocation of water to the new instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source.

3.4 Necessary conditions to the proposed instream use: None

Watermaster: *Larry Toll*
Larry Toll
421 E. 7th Avenue
Courthouse Annex B
Room 218
The Dalles, OR 97058
(541) 298-4110-Phone
(541) 298-2459-Fax

District: 3

Date: *4/20/1999*

IV.

The Undersigned Lessor, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete.

Lessor #1: *Arletta Clausen* Date: *22 MAR 99*

Lessor #2: *Patricia Clausen* Date: *3-22-99*

Lessee: *Adrian Purkey* Date: *3-23-99*

So ordered by Trustee: *Rufus D. Smiley* Date: *7/6-99*

Director, Oregon Water Resources Department

Effective Date of Lease Agreement: *7/6-99*

Exhibits: (A through D are on record at OWRD; E is attached)

- Exhibit A: Proof of property ownership (copy of property deed)
- Exhibit B: Map of Lessor's property
- Exhibit C: Copy of the certificate attached to property shown in Exhibit B that is to be leased
- Exhibit D: Detailed map illustrating lands irrigated by subject rights
- Exhibit E: Identification of public use to be served by instream use

EXHIBIT E

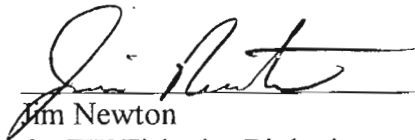
PUBLIC USE PROVIDED BY INSTREAM WATER RIGHTS

I believe that the water right described as Certificate No. 49296 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Fifteenmile Creek, tributary to the Columbia River, if temporarily converted to instream use during the 1999 irrigation season. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for winter steelhead will likely be improved within the designated reach; and
- passage for early migrating adult winter steelhead back into Fifteenmile Creek could be improved.

Dated: 3-22-99

Signed:



Jim Newton
ODFW Fisheries Biologist
The Dalles, Oregon

RECEIVED

FEB 07 2001

WATER RESOURCES DEPT.
SALEM, OREGON

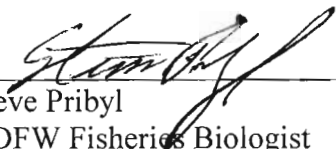
EXHIBIT E

PUBLIC USE PROVIDED BY INSTREAM WATER RIGHTS

I believe that the water right described as Certificate No. 49296 will provide for the conservation maintenance and enhancement of aquatic and fish life and fish habitat in Fifteenmile Creek, tributary to the Columbia River, if temporarily converted to instream use. Specifically, the following benefits will likely be provided:

- spawning and rearing habitat for winter steelhead will likely be improved within the designated reach; and
- passage for early migrating adult winter steelhead back into Fifteenmile Creek could be improved.

Dated: 12-26-00

Signed: 
Steve Pribyl
ODFW Fisheries Biologist
The Dalles, Oregon